

LEGISLATIVE BILL 709

Approved by the Governor June 2, 2005

Introduced by Erdman, 47; Aguilar, 35; Baker, 44; Beutler, 28; Bourne, 8; Brown, 6; Burling, 33; Byars, 30; Combs, 32; Connealy, 16; Cornett, 45; Cudaback, 36; Cunningham, 40; Engel, 17; Flood, 19; Foley, 29; Friend, 10; Heidemann, 1; Hudkins, 21; Jensen, 20; Johnson, 37; Kremer, 34; Kruse, 13; Langemeier, 23; Louden, 49; Mines, 18; Dw. Pedersen, 39; D. Pederson, 42; Preister, 5; Price, 26; Redfield, 12; Schimek, 27; Smith, 48; Stuhr, 24; Stuthman, 22; Wehrbein, 2

AN ACT relating to health care; to adopt the Medicaid Reform Act and the Long-Term Care Partnership Program Development Act; to provide termination dates; and to declare an emergency.
Be it enacted by the people of the State of Nebraska,

Section 1. Sections 1 to 8 of this act shall be known and may be cited as the Medicaid Reform Act. The Medicaid Reform Act terminates on January 1, 2006.

Sec. 2. The Legislature finds that:

(1) The medical assistance program has resulted in significantly increased expenditures by the State of Nebraska;

(2) In response to such increased expenditures, the Legislature has taken various actions affecting the availability and adequacy of medical assistance benefits to Nebraska residents under the program;

(3) As a result of such increased expenditures, the medical assistance program may become fiscally unsustainable; and

(4) Fundamental reform of the medical assistance program is necessary in order to ensure future sustainability of the program for the benefit of Nebraska residents.

Sec. 3. The Legislature finds that:

(1) The medicaid program under Title XIX of the Social Security Act, 42 U.S.C. 1396 et seq., provides essential health care and long-term care coverage to low-income children, pregnant women, and families, individuals with disabilities, and senior citizens serving over one in ten Nebraskans;

(2) The medicaid program covers one in four children in rural areas;

(3) The medicaid program is the largest single purchaser of maternity care and pays for over one-third of the births in the United States each year;

(4) Medicaid is America's single largest purchaser of nursing home services and other long-term care, covering the majority of nursing home residents;

(5) In Nebraska, the elderly and individuals with disabilities comprise twenty-three and three-tenths percent of the medicaid population and represent sixty-seven and two-tenths percent of medicaid expenditures;

(6) In Nebraska, low-income children and their parents comprise seventy-six and seven-tenths percent of the medicaid population and represent thirty-two and eight-tenths percent of medicaid expenditures;

(7) Medicaid pays for personal care and other supportive services necessary to enable individuals with disabilities to remain in the community, to work, and to maintain independence; and

(8) Medicaid is the single largest source of revenue for the nation's safety net hospitals and health centers and is critical to the ability of these providers to continue to serve medicaid enrollees and uninsured Americans.

Sec. 4. The purpose of the Medicaid Reform Act is to provide for reform of the medical assistance program established in section 68-1018, also known as medicaid, and a substantive recodification of statutes relating to such program, including, but not limited to, the enactment of policies to (1) moderate the growth of medicaid spending, (2) ensure future sustainability of the medical assistance program for Nebraska residents, (3) establish priorities and ensure flexibility in the allocation of medical assistance benefits, and (4) provide alternatives to medicaid eligibility for Nebraska residents.

Sec. 5. (1) It is the intent of the Legislature to provide for the development of a medicaid reform plan for the State of Nebraska and the enactment of necessary and appropriate legislation to implement such plan.

(2) It is the intent of the Legislature that such plan consider and address: (a) The needs of low-income, disabled, and aged persons currently

receiving medicaid services; (b) avoiding the shifting of the primary costs of health care services to providers of care; (c) the appropriate role of county government in providing health care services; (d) the availability and affordability of private health care insurance and long-term care insurance; (e) the personal responsibility of persons, who are able, to select and provide for all or a portion of the payment for their health care services; (f) the fiscal sustainability of such plan; and (g) alternatives to increase federal funding for services in order to reduce dependence on General Funds and maintain or increase the total amount of funding for such services, and the possible utilization of national consultants to assist in the consideration of such alternatives.

Sec. 6. The Governor and the chairperson of the Health and Human Services Committee of the Legislature shall each designate one person who shall be responsible to the Governor and the committee for the development of a medicaid reform plan for the State of Nebraska. Such plan shall be developed in consultation with the Governor, the committee, the Policy Cabinet established in section 81-3009, and the federal Centers for Medicare and Medicaid Services. Public input shall be solicited, and at least one public meeting shall be conducted in each congressional district during preparation of the plan and prior to submission of the plan. Monthly reports shall be provided to the Governor and the committee during preparation of the plan. Such reports shall be reviewed by the Medicaid Reform Advisory Council established in section 7 of this act and shall be available to the public. Such plan shall be submitted to the Governor and the Legislature no later than December 1, 2005, and shall include recommendations for the development of medicaid plan amendments and waivers and draft legislation necessary to support such plan. The committee shall conduct a public hearing on or before December 15, 2005, to receive public input regarding the plan.

Sec. 7. (1) The Medicaid Reform Advisory Council is established. The council shall consist of five persons appointed by the Governor and five persons appointed by the chairperson of the Health and Human Services Committee of the Legislature. The council shall consist of, but not be limited to, at least one representative from each of the following classes of persons: Health care providers, health care consumers and consumer advocates, business representatives, insurers, and elected officials.

(2) The council shall meet monthly with persons designated by the Governor and the chairperson of the Health and Human Services Committee under section 6 of this act and shall review monthly reports submitted by such designees under such section. Minutes of such meetings shall be available to the public and provided to the Governor and members of the Health and Human Services Committee of the Legislature.

(3) The council shall review the medicaid reform plan submitted under section 6 of this act and shall provide recommendations relating to the plan to the Governor and the Legislature on or before December 14, 2005.

(4) Members of the council shall serve without compensation for such service but shall be reimbursed for their actual and necessary expenses as provided in sections 81-1174 to 81-1177.

Sec. 8. The chairperson of the Health and Human Services Committee of the Legislature, in consultation with the committee, may prepare and introduce legislation in the Ninety-ninth Legislature, Second Session, to implement the medicaid reform plan developed under section 6 of this act.

Sec. 9. Sections 9 to 13 of this act shall be known and may be cited as the Long-Term Care Partnership Program Development Act. The Long-Term Care Partnership Program Development Act terminates on January 1, 2006.

Sec. 10. The purpose of the Long-Term Care Partnership Program Development Act is to provide for the development of a plan to establish a long-term care partnership program in the State of Nebraska and the enactment of necessary and appropriate legislation to implement such plan and such program.

Sec. 11. The Legislature finds that:

(1) The medical assistance program has resulted in significantly increased expenditures by the State of Nebraska;

(2) Efforts must be made to encourage the purchase of long-term care insurance and reduce reliance on medicaid to fund long-term nursing home services and home or community-based services;

(3) Several states have enacted legislation to establish long-term care partnership programs that contain asset protection components, including estate asset protection after the death of the insured;

(4) The federal Omnibus Budget Reconciliation Act of 1993 limited state asset protection programs established after May 14, 1993, by requiring recovery from the estates of all persons receiving services under medicaid;

(5) Several states have memorialized Congress to remove such restrictions on state asset protection programs; and

(6) It is prudent to develop a plan for the establishment of a long-term care partnership program in the State of Nebraska and the enactment of necessary and appropriate legislation to implement such plan and such program in the event that current federal restrictions are removed.

Sec. 12. The Nebraska Health and Human Services System and the Department of Insurance, in consultation with the Health and Human Services Committee of the Legislature, shall prepare a plan for the establishment of a long-term care partnership program in the State of Nebraska. Such plan shall be submitted to the Governor and the Legislature no later than December 1, 2005. In preparing such plan, the Nebraska Health and Human Services System and the Department of Insurance shall analyze partnership programs established by states prior to the enactment of federal restrictions on the establishment of such programs under the federal Omnibus Budget Reconciliation Act of 1993.

Sec. 13. The chairperson of the Health and Human Services Committee of the Legislature, in consultation with members of the committee, may prepare and introduce legislation in the Ninety-ninth Legislature, Second Session, to implement the plan developed under section 12 of this act.

Sec. 14. Since an emergency exists, this act takes effect when passed and approved according to law.